

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KOSS CORPORATION,

Plaintiff,

v.

PLANTRONICS, INC. and
POLYCOM, INC.,

Defendants.

Case No. 4:21-cv-03854-JST

**[PROPOSED] ORDER GRANTING
MOTION TO DISMISS SECOND
AMENDED COMPLAINT**

Before the Court is Defendants’ Motion to Dismiss Second Amended Complaint. Having considered the briefing and arguments presented by the parties, the Court hereby finds that Defendants’ motion should be, and hereby is, granted.

The claims of the five patents asserted in Plaintiff’s Second Amended Complaint—i.e., U.S. Patent Nos. 10,206,025, 10,469,934, 10,506,325, 10,757,498, and 10,848,852—are patent-ineligible under 35 U.S.C. § 101 because they are directed to the abstract idea of wireless communication over a network. None of the claims recite any inventive concept. Because the claims are patent-ineligible, Plaintiff has failed to state a claim upon which relief may be granted. Further, Plaintiff has already amended its complaint in this case, and any further amendment would be futile. Accordingly, Plaintiff’s Second Amended Complaint is dismissed with prejudice.

Furthermore, the Court previously dismissed Plaintiff’s First Amended Complaint, which asserted an additional patent, U.S. Patent No. 10,368,155. The Court warned Plaintiff that “[f]ailure to file a timely amended complaint will result in dismissal with prejudice.” ECF No. 88 at 16. Plaintiff did not file a timely amended complaint asserting U.S. Patent No. 10,368,155. Thus, the Court’s prior dismissal of Plaintiff’s claims as to this patent is hereby made with prejudice.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: _____

JON S. TIGAR
United States District Judge